

SUBCHAPTER 6F - PROCEDURES AND GUIDELINES TO IMPLEMENT THE NONDISCHARGE RULE FOR ANIMAL WASTE MANAGEMENT SYSTEMS

15A NCAC 06F .0101 PURPOSE

This Subchapter describes rules to implement the provisions of 15A NCAC 2H .0200 - Waste Not Discharged To Surface Waters, hereinafter called the Nondischarge Rule for Animal Waste Management Systems. In agreement with the Environmental Management Commission (EMC) and the Division of Environmental Management (DEM), the Soil and Water Conservation Commission sets forth these Rules in accordance with 15A NCAC 2H .0217. Alternatively, and in lieu of these Rules, the requirements of 15A NCAC 2H .0200 may be satisfied also by receiving an individual nondischarge permit from the Division of Environmental Management in accordance with 15A NCAC 2H .0217(d). An owner must either obtain certification under these Rules or meet DEM requirements for an individual nondischarge permit. The review process of the District does not abrogate the responsibilities of the owner to either obtain a certification or to meet DEM requirements for an individual nondischarge permit.

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Authority G.S. 139-2; 139-4; 143B-294;
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15A NCAC 06F .0102 DEFINITIONS

The terms used in this Subchapter shall be as defined in G.S. 139-3; 143-215.74; 143B-294; 15A NCAC 2H .0203; 15A NCAC 6E .0002; and as follows:

- (1) "Agronomic rates" means those amounts of animal waste or compost to be applied to lands as contained in the nutrient management standard of the USDA Soil Conservation Service Technical Guide Section IV or as recommended by the North Carolina Department of Agriculture and the North Carolina Cooperative Extension Service at the time of certification of the animal waste management plan.
- (2) "Certification" means the certification required in the Nondischarge Rule for Animal Waste Management Systems (15A NCAC 2H .0217).
- (3) "DEM" means the Division of Environmental Management, Department of Environment, Health, and Natural Resources, and the agency to receive the certification forms and responsible for enforcement of 15A NCAC 2H .0200.
- (4) "Design approval authority" means that authority granted by the Commission to designated individuals or groups of individuals to certify that a BMP or the system of BMPs for waste management has been designed to meet the standards and specifications of practices adopted by the Commission.
- (5) "Installation approval authority" means that authority granted by the Commission to designated individuals or groups of individuals to certify a BMP or system of BMPs for waste management has been installed to meet the standard of practices adopted by the Commission.
- (6) "Technical Specialist" means individuals or groups of individuals designated by the Commission at 15A NCAC 6F .0005 to certify an entire or portion of an animal waste management plan.

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15A NCAC 06F .0103 REQUIREMENTS FOR CERTIFICATION OF WASTE MANAGEMENT PLANS

- (a) In accordance with 15A NCAC 2H .0217(a)(1), owners of animal waste management systems are required to:
- (1) obtain certification that the system will properly collect, treat, store, or apply animal waste to the land such that no discharge of pollutants occurs to surface waters of the state by any means except as a result of a storm event more severe than the 25-year, 24-hour storm as required in 15A NCAC 2H .0203(3); or
 - (2) receive an individual nondischarge permit from the Division of Environmental Management in accordance with 15A NCAC 2H .0217(d).

- (b) The certification is to be made by a Technical Specialist designated pursuant to this Subchapter, and will confirm that the best management practices (BMPs) contained in the animal waste management plan meet applicable minimum standards and specifications. BMPs in an existing system are not required to meet current standards and specifications as established by the Commission as long as the system is certified to be nondischarging as required in 15A NCAC 2H .0203(3).
- (c) More than one Technical Specialist may be consulted for the design of BMPs and installation of BMPs. A Technical Specialist must certify the entire animal waste management plan as installed.
- (d) Upon receiving a certification from a Technical Specialist, the owner must submit a copy of the certification to DEM and a copy of both the certification and the waste management plan to the District in which the system is or is to be located.
- (e) The District shall review the waste management plan and, within 30 days of receipt of the plan, notify the owner, the certifying Technical Specialist, DEM and the Division if the District does not concur that the certification was signed by an approved Technical Specialist and that the waste management plan satisfies the purpose of proper conservation and utilization of farm generated animal by-products. If the District, upon review, concurs with the certification, no further action is required.
- (f) The District shall maintain a copy of all animal waste management plans and the accompanying certification form.
- (g) If the District does not concur that the certification was signed by a Technical Specialist, or that the waste management plan is acceptable, and if either the owner or the DEM requests that the District reconsider its decision, the District shall review its decision and within 45 days of the request, notify the owner, the certifying Technical Specialist, DEM, and the Division of the District's final decision. The District is encouraged to utilize other technical specialists, local agricultural agencies and disinterested agricultural producers in reconsidering its initial decision. If the District fails to act within 45 days on a request for reconsideration, the District's initial decision shall become final.
- (h) An owner not receiving concurrence from the District may request that the Commission mediate a dispute over concurrence. Nothing in this Rule creates an administrative remedy which must be exhausted prior to exercising permit appeal rights pursuant to the rules of the Environmental Management Commission.
- (i) An owner who does not obtain a certification is not deemed permitted pursuant to G.S. 143-215.1(d) and must apply for an individual permit from the Division of Environmental Management. Nothing in these Rules prohibits permit appeal rights pursuant to the rules of the Environmental Management Commission.
- (j) Any proposed modification of an animal waste management plan requires approval by a Technical Specialist.
- (k) Any modifications made in the system as a result of changes in the operation such as types and numbers of animals, equipment, or crops, must be in accordance with the BMP standards and specifications approved by the Commission and in effect at the time of the modification.
- (l) A change in the cropping pattern as a result of weather-caused delays after application of animal waste shall not require the owner to obtain a new certification as long as the owner followed the certified waste management plan application rates and no discharge occurs to surface waters.
- (m) The certifying Technical Specialist and the District are not required to spot check or otherwise assure proper maintenance and operation of an animal waste management system installed to meet the DEM certification requirements. Enforcement of the Nondischarge Rule for Animal Waste Management Systems (15A NCAC 2H .0217) shall remain the responsibility of DEM.

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15A NCAC 06F .0104 APPROVED BEST MANAGEMENT PRACTICES (BMPS)

- (a) The Commission will approve a list of BMPs that are acceptable as part of an approved animal waste management system. The list of BMPs will be approved annually (by August 1) and revised as needed during the year by the Commission.
- (b) As required by DEM in 15A NCAC 2H .0217, a BMP or system of BMPs designed and installed for an animal waste management plan must either:
 - (1) meet the minimum standards and specifications of the US Department of Agriculture Soil Conservation Service Technical Guide, Section IV or minimum standards and specifications as otherwise determined by the Commission; or
 - (2) the owner must receive an approved individual nondischarge permit as required for the animal waste management system.

- (c) BMPs approved for use in the Agriculture Cost Share Program for Nonpoint Source Pollution Control are hereby approved for these purposes.
- (d) Land application BMPs following the nutrient management standard contained in the Section IV of the SCS Technical Guide or as recommended by the North Carolina Department of Agriculture (Soil Test Report and Waste Analysis, Form AD 10) and the Cooperative Extension Service (AG-439-4) (AG-439-5) (AG-439-28) are acceptable. In cases where agronomic rates are not specified in the nutrient management standard for a specific crop or vegetative type, application rates may be determined using the best judgement of the certifying Technical Specialist after consultation with NCDA or CES.
- (e) Exemptions from the minimum buffer requirements for animal waste storage and treatment facilities and animal concentration areas are acceptable if no practical alternative exists and the BMP installed as an equivalent control meets the requirements for Nondischarge except as a result of a storm event more severe than the 25-year, 24-hour storm.

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15A NCAC 06F .0105 TECHNICAL SPECIALIST DESIGNATION

(a) As required in 15A NCAC 2H .0217, the Commission designates the following individuals or groups of individuals as Technical Specialists, to assist owners in animal waste management plan development and certification. No rights are afforded to Technical Specialists by this designation. Technical Specialists are defined as:

- (1) Individuals who have been assigned design approval authority or installation approval authority by the USDA, Soil Conservation Service, the NC Cooperative Extension Service or the NC Department of Agriculture;
- (2) Professional engineers subject to "The North Carolina Engineering and Land Surveying Act" as rewritten by Session Laws 1975, c. 681, s. 1, and recodified; and
- (3) Individuals with demonstrated skill and experience in the design or installation of animal waste management system BMPs.

(b) Design approval authority or installation approval authority of Technical Specialists may be for specific BMPs or a system of BMPs to be applied to complete an entire or a portion of an animal waste management plan.

(c) Those individuals not designated in Subparagraphs (a)(1) or (2) of this Rule must:

- (1) Meet the minimum qualifications established by the Commission for each BMP or system of BMPs;
- (2) Provide to the NPS Section of the Division an "Application for Designation as a Technical Specialist" and evidence of demonstrated skill and experience required for a BMP or system of BMPs for which they are requesting Technical Specialist designation. This documentation must be received by the second Wednesday of the first month of the quarter in order to have the application reviewed for designation that quarter; and
- (3) The individual may provide additional information and request that their approval authority be updated based on new evidence of skill and experience.

(d) A copy of the minimum requirements for skill and experience will be available at the District field office. The NPS Section of the Division will provide a list of designated Technical Specialists to all Districts, after each Commission meeting where action was taken concerning Technical Specialists. The list will specify the BMPs or system of BMPs which the Technical Specialist has designed or installed. The individual will be notified of the Commission action.

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